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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,124

07/24/2006

Manfred Weber

29827/42210

3095

4743

7590

07/23/2010

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

EXAMINER

SALVATORE, LYNDIA

ART UNIT

PAPER NUMBER

1786

MAIL DATE

DELIVERY MODE

07/23/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,124	Applicant(s) WEBER ET AL.	
	Examiner LYNDA M. SALVATORE	Art Unit 1786	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-16 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,10-16 and 19-24 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's remarks filed 5/17/10 have been fully considered and entered. Applicant's remarks regarding the anticipation and obviousness type rejections made over Burgert et al., US 5,629,377 are found persuasive. Specifically, Burgert does not teach the limitation mixture comprising at least one polymeric material and at least one cross-linker and curing the mixture on the supporting material. It appears from the disclosure of Burgert et al., US 5,629,377 that cross-linking occurs prior to contact with a solid support material. As such, these rejections are hereby withdrawn. However, upon further consideration the following new ground of rejection is set forth herein below.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-5, 7-8, 10-11, 12-14, 19 and 20-24 rejected under 35 U.S.C. 103(a) as being unpatentable over the published abstract of JP-271303 issued to Shinya et al., in view of Anderson et al., US 6,686,414. (*note: a complete translation of the JP abstract will be provided in the next Office Action*)

The published JP abstract issued to Shinya et al., teach a water absorptive resin emulsion comprising 60-90% neutralized carboxylic acid monomers such as methacrylic acid, an organic solvent such as an aromatic hydrocarbon (with regard to claim 9, mineral oil is considered an aromatic hydrocarbon

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http://en.wikipedia.org/wiki/Mineral_oil) and a crosslinking agent (abstract). Said absorptive resin is used in personal care articles (abstract). Said water absorptive resin exhibits high gel strength and high water absorbing character (abstract).

Shinya et al., does not specifically teach contacting the water absorptive resin with a solid supporting member and curing the mixture on the material, however, the patent issued to Anderson et al., teach a polymer composition comprising 50% carboxylic acid and a cross-linking agent (abstract). Said composition is neutralized with a base material (column 3, 63-column 4, 15). Anderson et al., teach coating the composition on a fibrous substrate and then curing in an oven at 130 degree C (column 5, 47-55 and column 6, 1-35, column 7, 15-30, column 9-15). Said composition is taught as superabsorbent (title). Suitable fibrous substrates include non-wovens made with natural and synthetic fibers (column 6, 23-55).

Therefore motivate to form an absorbent fibrous substrate with an absorptive polymer resin exhibiting high gel strength and water absorbing character, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the composition of Anderson et al., with the absorptive polymer of Shinya et al

With regard to claims 10-11, 22 and 24, the combination of prior art does not teach the claimed cross-linking agent in the claimed amount, however, it is the position of the Examiner that absent unexpected results it would be obvious to one having ordinary skill in the art at the time the invention was made to employ the claimed cross-linking agent in the claimed amount as a function of availability, cost and/or ease of

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processing and desired amount of cross-linking. There doesn't appear to be anything particularly novel with respect to the claimed cross-linking agents. Applicant is invited to evidence otherwise. It is noted that the amount of the weight ratio of the components is a result effective variable, and therefore, it is within the skill of those skilled in the art to find the optimum value of a result effective variable, as per *In re Boesch and Slaney* 205 USPQ 215 (CCPA 1980). See also *Peterson*, 315 F.3d at 1330, 65 USPQ2d at 1382: "The normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages."

With regard to claims 19 and 20, it is the position of the Examiner that absorbent article provided by the combination of the Anderson et al., in view of Shinya et al., could function in the desired capacity as a sealing material. Support for said presumption is based on the fact that the combination of prior art teach the claimed chemical and structural limitations. Applicant is invited to prove otherwise.

4. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the published abstract of JP-271303 issued to Shinya et al., in view of Anderson et al., US 6,686,414 as applied to claim 1 and further in view of Burgert et al., US 5,629,377.

The patent issued to Burgert et al teach an absorbent composite comprising water absorbent resin particles formed from 70-99.9 % unsaturated carboxyl monomers and .1-5 of a cross-linking agent (abstract and column 2, 25-45). With regard to the solid supporting material, Burgert et al., teach mixing the water absorbent resin particles with

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fibers or affixing them to a woven, non-woven or film substrate (13, 40-65 and column 14, 1-35). Suitable fibers include synthetic fibers (column 13, 40-65).

With regard to claims 15-16, Burgert et al., does not teach the claimed close-out but does teach positioning the water absorbent particles between two synthetic fibrous layers or polymeric film layers (column 14, 5-20). Though, Burgert et al., does not specifically teach that said layers are plastic, however such synthetic polymeric layers are commonly formed from thermoplastic materials. As such, the Examiner considers the limitation of "plastic" met. Thus, it is the position of the Examiner that since Burgert et al., presently meets the chemical and structural limitation set forth, the article of Burgert et al., could function in the desired capacity as a close-out. Applicant is invited to prove otherwise.

Therefore, motivated by the desire to form a close out it would have been obvious to one having ordinary skill in the art it would have been obvious to one having ordinary skill in the art to employ the absorbent article provided by the combination of Shinya et al., in view of Anderson et al., in forming an article wherein the absorbent resin material is positioned between two outer layers as taught by Burgert et al. Specific motivation to form a three layer structure wherein the absorbent resin is positioned in the middle between two outer layers is found in the desire to expand the number of embodiments/uses suitable for the absorbent resin.

Allowable Subject Matter

5. Claim 9 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

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claim and any intervening claims. Presently there is no known prior art which teach or fairly suggest the limitation of wherein the polymeric material further comprises a granular superabsorbent based on partially neutralized cross-linked polyacrylic acid.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LYND A M. SALVATORE whose telephone number is (571)272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 21, 2010
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/Lynda Salvatore/
Primary Examiner